

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EDWARD THOMPSON,

Plaintiff,

v.

CIVIL CASE NO. 04-40257

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT JUDGE

K. KONENY, WILLIAM GRAY,  
ZAKIUDBIN A. KHAN, GREGG BRANHAM,  
M. WARMBUR, and S. BIRD,

Defendants.

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

Before the Court are Defendant Dr. Khan's motion to dismiss under Fed. R. Civ. P. 12(b)(6), for failure to exhaust administrative remedies, and Defendant Branham's motion to quash service, to dismiss under Fed. R. Civ. P. 12(b)(6), and for summary judgment. Defendant Branham's motion is premised, inter alia, on Plaintiff's failure to bring his claim within the applicable statute of limitations.

Also before the Court is the report and recommendation of the Honorable R. Steven Whalen, United States Magistrate Judge. The Magistrate Judge recommends that this Court grant Defendants' motions and dismiss Plaintiff's claims against all defendants for failure to file suit within the applicable statute of limitations. The Magistrate Judge also notes that Plaintiff's claims against all

defendants are subject to dismissal without prejudice due to Plaintiff's failure to exhaust his administrative remedies. The Magistrate Judge served the report and recommendation on all parties on May 4, 2005 and notified the parties that any objections must be filed within ten days of service. Accordingly, any objections on the part of Plaintiff should have been filed by May 23, 2004. No party has filed objections to the report and recommendations.

The Court's standard of review for a Magistrate Judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. See Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings." Thomas v. Arn, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the report and recommendation, the Court need not conduct a review.

**ACCORDINGLY, IT IS HEREBY ORDERED** that the report and recommendation [docket entry 37] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

**IT IS FURTHER ORDERED** that both Dr. Khan's motion to dismiss under Fed. R. Civ. P. 12(b)(6) [docket entry 12] and Defendant Branham's motion to quash service, to dismiss under Fed. R. Civ. P. 12(b)(6), or for summary judgment [docket entry 21] are **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff's action, **No. 04-40257**, is **DISMISSED WITH PREJUDICE**.

**SO ORDERED.**

Dated: June 8, 2005

s/Paul V. Gadola  
HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on June 8, 2005, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Ronald W. Chapman; Kimberley A. Koester; Diane M. Smith, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Edward Thompson; Gerald V. Padilla; Jonathan M. Hartman.

s/Ruth A. Brissaud  
Ruth A. Brissaud, Case Manager  
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